

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 2:22-cv-203-JRG
)	
MICRON TECHNOLOGY, INC.; MICRON)	JURY TRIAL DEMANDED
SEMICONDUCTOR PRODUCTS, INC.;)	
MICRON TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	
)	

JOINT MOTION FOR ENTRY OF AGREED DOCKET CONTROL ORDER

Pursuant to the Court’s sample Docket Control Order and Federal Rule of Civil Procedure 16(b)(4), Plaintiff Netlist, Inc. (“Netlist”) and Defendants Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC (collectively “Micron”) file this motion for entry of an agreed Docket Control Order (“DCO”). A copy of the agreed DCO is attached herewith.

At the Scheduling Conference, this Court set the claim construction hearing for July 19, 2023, deadlines to file dispositive motions for October 16, 2023, and trial for January 22, 2024. The parties’ proposed changes to the schedule do not affect any of these dates, nor any other date that requires a showing of good cause.

Accordingly, the Parties request that the Court enter an order setting the following deadlines as set forth in the accompanying agreed DCO:

The Parties’ Jointly Proposed Modification	Court’s Deadlines	Items
	January 22, 2024	*Jury Selection – 9:00 a.m. in Marshall, Texas
	December 26, 2023	* If a juror questionnaire is to be

		used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date. ¹
	December 20, 2023	* Pretrial Conference – 9:00 am in Marshall, Texas before Judge Roy Payne
	December 11, 2023	*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
	December 11, 2023	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
	December 4, 2023	*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.
	November 27, 2023	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial

¹ The Parties are referred to the Court's Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

		would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
	November 27, 2023	Serve Objections to Rebuttal Pretrial Disclosures
	November 20, 2023	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
	November 6, 2023	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
	October 30, 2023	*Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. ² Motions for Summary Judgment shall comply with Local Rule CV-56.
	October 16, 2023	*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.
	October 16, 2023	*File Dispositive Motions No dispositive motion may be filed after this date without leave of the Court.

² The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

		Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>
	October 10, 2023	Deadline to Complete Expert Discovery
	September 25, 2023	Serve Disclosures for Rebuttal Expert Witnesses
	September 5, 2023	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
	September 5, 2023	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
	August 9, 2023	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
	July 19, 2023	*Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap
	July 5, 2023	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
	June 28, 2023	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
	June 21, 2023	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
	June 7, 2023	Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).
	June 7, 2023	Deadline to Substantially Complete Document Production and Exchange Privilege Logs Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait

		until the substantial completion deadline.
	May 24, 2023	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
	May 17, 2023	File Response to Amended Pleadings
	May 3, 2023	*File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
	April 26, 2023	Comply with P.R. 4-3 (Joint Claim Construction Statement)
	April 5, 2023	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
	March 15, 2023	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
	November 7, 2022	Comply with Standing Order Regarding Subject-Matter Eligibility Contentions ³
November 21, 2022	November 7, 2022	Comply with P.R. 3-3 & 3-4 (Invalidity Contentions)
	October 24, 2022	*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures) The Proposed Protective Order shall be filed as a separate motion with the caption indicating whether or not the proposed order is opposed in any part.
	October 18, 2022	*File Proposed Docket Control Order and Proposed Discovery Order The Proposed Docket Control Order and Proposed Discovery

³ <http://www.txed.uscourts.gov/sites/default/files/judgeFiles/EDTX%20Standing%20Order%20Re%20Subject%20Matter%20Eligibility%20Contentions%20.pdf> [https://perma.cc/RQN2-YU5P]

		Order shall be filed as separate motions with the caption indicating whether or not the proposed order is opposed in any part.
--	--	--

The parties respectfully request that the Court enter the proposed DCO filed herewith.

Dated: October 19, 2022

Respectfully submitted,

/s/ Jason G. Sheasby

Jason G. Sheasby

Samuel F. Baxter
Texas State Bar No. 01938000
sbaxter@mckoolsmith.com
Jennifer L. Truelove
Texas State Bar No. 24012906
jtruelove@mckoolsmith.com
MCKOOL SMITH, P.C.
104 East Houston Street Suite 300
Marshall, TX 75670
Telephone: (903) 923-9000
Facsimile: (903) 923-9099

Jason G. Sheasby (*pro hac vice*)
jsheasby@irell.com
Annita Zhong, Ph.D. (*pro hac vice*)
hzhong@irell.com
Thomas C. Werner (*pro hac vice*)
twerner@irell.com
Yanan Zhao (*pro hac vice*)
yzhao@irell.com
Michael W. Tezyan (*pro hac vice*)
mtezyan@irell.com

IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel. (310) 277-1010
Fax (310) 203-7199

Attorneys for Plaintiff Netlist, Inc.

/s/ Michael R. Rueckheim

Thomas M. Melsheimer
State Bar No. 13922550

TMelsheimer@winston.com
Natalie Arbaugh
State Bar No. 24033378
NArbaugh@winston.com
WINSTON & STRAWN LLP
2121 N. Pearl Street, Suite 900
Dallas, TX 75201
Telephone: (214) 453-6500
Facsimile: (214) 453-6400

Michael R. Rueckheim
State Bar No. 24081129
MRueckheim@winston.com
WINSTON & STRAWN LLP
255 Shoreline Drive, Ste 520
Redwood City, CA 9405
Telephone: (650) 858-6500
Facsimile: (650) 858-6559

David Enzminger
Pro Hac Vice Pending
DEnzminger@winston.com
WINSTON & STRAWN LLP
333 S. Grand Avenue
Los Angeles, CA 90071-1543
Telephone: (213) 615-1700
Facsimile: (213) 615-1750

Matthew Hopkins
Pro Hac Vice Pending
mhopkins@winston.com
WINSTON & STRAWN LLP
1901 L Street, NW
Washington, DC 20036
Telephone: (202) 282-5862
Facsimile: (202) 282-5100

Juan Yaquian
State Bar No. 24110559
Pro Hac Vice
JYaquian@winston.com
WINSTON & STRAWN LLP
800 Capital Street, Suite 2400
Houston, TX 77002
Telephone: (713) 651-2600
Facsimile: (713) 651-2700

*Attorneys for Defendants Micron Technology,
Inc., Micron Semiconductor Products, Inc.,
Micron Technology Texas LLC*

CERTIFICATE OF CONFERENCE

I hereby certify that counsel have complied with the meet and confer requirement in Local Rule CV-7(h) and this Court's Orders and that all parties join in this motion.

/s/ Yanan Zhao
Yanan Zhao

CERTIFICATE OF SERVICE

I hereby certify that, October 19, 2022, a copy of the foregoing was served to all counsel of record.

/s/ Yanan Zhao
Yanan Zhao